

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	
Universal Service;)	CC Docket No. 96-45
Promoting Deployment and)	
Subscribership in Unserved)	
and Underserved Areas, Including)	
Tribal and Insular Areas)	

COMMENTS OF THE MINNESOTA PUBLIC UTILITIES COMMISSION

The Minnesota Public Utilities Commission (MNPUC) makes this filing in response to the Federal Communications Commission's (Commission's) request for comment on the FCC's September 3, 1999 Further Notice of Proposed Rulemaking (FNPRM) in this docket. The Notice invited interested parties to comment on the issues surrounding deployment and subscribership in unserved and underserved areas, including tribal and insular areas. In the FNPRM, the Commission is considering methods of meeting the goal of the Telecommunications Act of 1996 to ensure that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services..." [47 U.S.C. § 254 (b)(3).] In adopting the FNPRM, the Commission recognizes that there are areas that lack telecommunications services either because those areas are unserved or underserved. These regions may be rural areas, tribal lands or insular areas. The MNPUC appreciates this opportunity to comment and commends the Commission on its efforts.

I. INTEREST OF THE MNPUC

The MNPUC is the state governmental agency charged with the regulation of telecommunications carriers in Minnesota. Under the Commission's universal service rules, the MNPUC is also the entity with the responsibility of designating telecommunications service providers as eligible telecommunications carriers (ETCs) for federal universal service purposes. As further background information, by state law¹, the MNPUC does not have jurisdiction to regulate radio common carriers, and, the State of Minnesota does not currently have a state universal service fund, although a rulemaking proceeding is underway.²

The MNPUC has also recently issued an Order requiring Contel of Minnesota, Inc. d/b/a GTE Minnesota to include within its assigned service territory small areas of previously unassigned territory in northern Minnesota. The MNPUC's experience in resolving petitioners' requests for service has provided a first hand review of the difficulties presented in bringing service to a previously unserved rural (though not remote) region of the United States.

II. FURTHER NOTICE OF PROPOSED RULEMAKING

A. Current Levels of Deployment and Subscribership

In paragraph nine of the FNPRM, the Commission asks for information on current levels of

¹Minn. Stat. § 237.01, subd. 2.

²MNPUC Docket No. P-999/R-97-609.

deployment and subscribership in unserved, tribal and insular areas. While the State of Minnesota is often at or near the top of the list of states in terms of penetration rate, there are portions of six counties in northern Minnesota that are in “unassigned territory”. In other words, there is no incumbent local exchange carrier (ILEC) assigned to provide service to these areas. As a part of the MNPUC’s state universal service rulemaking proceeding, letters were sent to the county administrators in each of the six counties in an attempt to determine the potential number of citizens without access to telephone service. Of the six counties with unassigned territory, according to the information provided, only two of the counties have no residents within that territory. In the other four counties, the information indicates that there are at least one thousand dwelling places³ that do not have telephone service.

B. Availability and Cost of Telecommunications Services

In August 1998, the MNPUC received a petition from 46 residents in unassigned territory in northern Minnesota, generally around the city of Ely, Minnesota. (MNPUC docket P-999/CP-98-1193.) In July 1999, the MNPUC issued an Order directing that GTE include the petitioning area within its assigned service territory. (The petitioning area was defined as the area within which the original 46 petitioners resided plus any subsequent person requesting service whose location was within two miles of an original petitioner.) Potential subscribers, both petitioners and non-petitioners in the petitioning area, were directed to contact GTE to request service. To

³A dwelling place could be a year round home or a cabin used for seasonal purposes. In northern Minnesota, it is becoming increasingly common for seasonal cabins to be turned into year round use as a primary residence or a vacation home.

date, as a result of this one petition, GTE has indicated that it will provide service to 125 customers and a total of at least 137 lines. (At least six persons requesting service have had their request denied because they are too far from the petitioning area.)

1. Compensation for Serving Unassigned Territory

GTE is not providing service to the petitioning area voluntarily. In fact, the MNPUC invited any other service provider interested in serving the petitioning area to submit their proposed costs to the MNPUC. GTE was required to submit a cost study as the incumbent provider with the closest facilities. While two rural incumbent LECs investigated the possibility of serving the area, they did not submit cost studies.

A major issue in the MNPUC proceeding was compensation for providing the service. GTE's initial cost study placed the cost of providing wireline service to the petitioning area at a few million dollars. GTE is a non-rural company and it receives no federal universal service support in Minnesota today. Nor will GTE receive any federal universal service support under the methodology to go into effect January 1, 2000. GTE is a rate-of-return regulated company in Minnesota, so the MNPUC determined that if GTE requires compensation, it should file a rate case with the MNPUC. The lack of universal service support, or the uncertainty surrounding the provision of universal service support, is an impediment to any company stepping forward to provide service in unserved areas.

2. Alternative Technologies

In paragraph 14 of the FNPRM, the Commission seeks comment on whether any carrier is providing service using Basic Exchange Telecommunications Radio Systems (BETRS) or wireless technology. It is the MNPUC's understanding that three incumbent LECs used BETRS in Minnesota. One company has replaced its BETRS service. A second company continues to use BETRS to serve approximately 10 customers. Finally, GTE had been using BETRS technology to serve approximately 25 customers in unassigned territory in northern Minnesota. The majority of those 25 customers will be receiving landline service as a result of the Commission's decision in MNPUC docket P-999/CP-98-1193; however, GTE will continue to serve a few customers using BETRS technology. GTE had been charging its BETRS customers \$75.00 per month for radiophone service. As a result of the MNPUC's decision in docket P-999/CP-98-1193, GTE will be charging the same rate for the BETRS service that it charges for landline service.

In another recent proceeding, the MNPUC approved the petition of Minnesota Cellular for ETC designation in specified areas in southwestern and northwestern Minnesota using wireless technology. See MNPUC docket P-5695/M-98-1285, Order Granting Preliminary Approval and Requiring Further Filings. Minnesota Cellular must make a compliance filing before it can begin to provide wireless service as an ETC. The area within which the MNPUC has determined that Minnesota Cellular may act as an ETC does not include any unassigned area within Minnesota but would include some tribal land.

3. Minnesota Tribal Lands

In FNPRM paragraph 15, the Commission seeks comment on whether tribal lands fall within the designated service area of existing carriers. In Minnesota, a small portion of unpopulated tribal land lies within unassigned territory. Populated areas of tribal land are served by existing incumbent LECs. These incumbent LECs operate exchanges which include both tribal and nontribal land, and the companies' tariffs make no distinction between tribal and nontribal land. The MNPUC is not aware that any problems or difficulties have occurred regarding the service provided by incumbent LECs to tribal areas. When asked if line extension charges may be excessive to serve tribal lands, one telephone company official indicated that its application of the excess construction charges in its tariff is very lax and has only been used twice in the last several years, both times for line extensions on non-tribal lands.

The MNPUC has no statistics and has done no research on the penetration level on tribal lands within Minnesota. The MNPUC understands that the penetration rate for Indian country nationally is around 40 percent. Anecdotally, the MNPUC is aware of at least one school on tribal land where there is a concern by school officials regarding the ability to determine the reason for a student's absence from school. If a student is absent for a few days and the family has no telephone, a school official must drive the several miles to the student's home to determine why the student has not been attending school.

C. Impediments to Increased Penetration

In FNPRM paragraph 28, the Commission seeks comments on whether any aspect of the

Commission's universal service rules deter carriers from providing service to unserved or underserved areas. In Minnesota, the two non-rural companies, GTE and U S WEST Communications, Inc., do not receive any federal universal service funding under the current method nor will they under the new support mechanism scheduled to take effect on January 1, 2000. Contrary to the Commission's conclusion in FNPRM paragraph 83, there is no incentive for these companies to serve the high cost, unassigned territory in Minnesota. Unfortunately, the two rural LECs that also investigated the possibility of serving the petitioning unassigned area in MNPUC docket P-999/CP-98-1193 came to the conclusion that it would not be cost effective for them to do so, either. The MNPUC believes that this conclusion was reached, in part, because of the two years that a rural LEC must wait before receiving any federal universal service funding under the data collection requirements of the Commission's universal service funding rules.⁴

D. Implementation of Section 214(e)(3)

1. Unserved Areas

In FNPRM paragraph 91, the Commission discusses how a request for service must be made. To date, the MNPUC has received only the one formal petition from residents in unassigned territory requesting service. Given the large geographic area of the remaining unassigned territory in northern Minnesota and the fact that some potential subscribers were informed by GTE that they would not receive service as a result of the MNPUC Order, the MNPUC knows

⁴47 C.F.R. § 36.611-622.

that there are residents who are unserved and want wireline service. Cellular coverage in the unassigned territory is weak or non-existent, contributing to these residents' desire for traditional telephone service. The MNPUC expects to deal with these requests on a case-by-case basis.

In paragraphs 95 through 114 of the FNPRM, the Commission discusses a competitive bidding process for determining which carrier(s) should be authorized to serve an unserved area. The MNPUC emphasizes that the prospect of serving an unserved area must be financially attractive in order to entice potential service providers to submit bids to serve the area.

2. Underserved Areas

The MNPUC agrees with the Commission that the cost of line extensions may be a deterrent to potential subscribers in assigned territory (FNPRM paragraph 119). While the MNPUC has no statistics on the number of residents who do not have telephone service because of high line extension charges, the MNPUC is aware of individual instances where line extension charges were so high that potential subscribers declined service. In the past year, twelve complaints have been filed with the MNPUC regarding line extension charges. The quoted line extension charges ranged from \$179 to \$30,000.

The Commission also seeks comment on the extent to which a limited local calling area may impose a barrier to increased penetration in certain underserved areas. In Minnesota, there are many exchanges in which subscribers can only make a local call within the exchange or to one or two other small exchanges. However, the MNPUC still processes petitions for extended area

service (EAS), so an exchange with a desire for a larger local calling area can submit a petition for EAS with the MNPUC. Because EAS results in a local rate additive that must be paid by everyone in the exchange, the Commission ballots every subscriber in the exchange that submits the petition. Probably the more common complaint with regard to a small local calling area today is not that doctors or schools cannot be reached but that it is a long distance call to an Internet service provider.

III. CONCLUSION

The MNPUC is aware from having dealt with the specific issue of unassigned territory that similar situations exist in other states. As the Commission looks at bringing telecommunications and information services to tribal lands, insular areas and underserved areas, the MNPUC strongly encourages the Commission to address those unassigned territories where no service provider is willing to offer service. Special consideration is needed to bring service to the high cost unserved and underserved areas of our nation. The MNPUC appreciates this opportunity to provide comments on these issues.

Respectfully submitted,

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Chairman
Minnesota Public Utilities Commission